

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TERRELL GILES,

Petitioner,

v.

MICHAEL GIAMBRUNO,

Respondent.

DECISION AND ORDER
04-CV-779S

1. On September 27, 2004, Petitioner filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. On August 22, 2007, Judge Schroeder filed a Report and Recommendation recommending that this Court deny the Petition for Writ of Habeas Corpus. This Court accepted Judge Schroeder's Report and Recommendation over Petitioner's Objections on September 26, 2007.

2. On October 29, 2007, Petitioner filed motions (Docket Nos. 24 and 25) requesting that this court issue a Certificate of Appealability and grant Petitioner an extension of time to file his appeal.

IT HEREBY IS ORDERED, that because the issues raised in the Petition are not the type of issues that a court could resolve in a different manner, and because these issues are not debatable among jurists of reason, this Court concludes that Petitioner has failed to make a substantial showing of the denial of a constitutional right, 28 U.S.C. § 2253(c)(2), and accordingly, a Certificate of Appealability is DENIED.

FURTHER, that a Certificate of Appealability shall not issue.

FURTHER, that this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal would not be taken in good faith.

FURTHER, that Petitioner's Motion for a Certificate of Appealability (Docket No. 25) is DENIED.

FURTHER, that Petitioner's Motion for an Extension of Time to file his appeal is DENIED as moot. (Docket No. 24).

SO ORDERED.

Dated: November 2, 2007
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge